

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Prior to the Office Action, claims 1-26 were pending. Through this Reply, claims 27 and 28 are added. Therefore, claims 1-28 are pending. Claims 1, 9 and 13 are independent.

§ 102 REJECTION – STEINBERG

Claims 9, 13, 17-19, 23 and 26 stand rejected under 35 USC 102(e) as allegedly being anticipated by Steinberg et al. (USP 6,433,818). *See Office Action, item 4.* Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Contrary to the Examiner's allegation, Steinberg may not be relied upon to teach or suggest all features of claim 9. For example, independent claim 9 recites, in part "automatically initiating a registering of the inputted fingerprint data ... in case no fingerprint data is registered ... "

In the Office Action, the Examiner admits that such a feature is not taught or suggested in Steinberg. *See Office Action, page 3, lines 18-21.* Therefore, for at least this reason, claim 9 is distinguishable over Steinberg.

Steinberg cannot be relied upon to teach or suggest all features of independent claim 13 as well. Claim 13 recites, in part “determining if the digital camera is being used for a first time ever.”

The Examiner alleges that as disclosed in Steinberg, when a user enters a password and the password is accepted, this is an indication that the *user is using the camera for the first time* and that acceptance of the password is a signal that the *user has not used the camera before*.

However, even if the Examiner’s allegation is taken at face value and assumed to be true, Steinberg still fails to teach whether the camera itself is being used for the first time. Knowing whether or not a particular user is using the camera for the first time does not provide any information on whether the camera itself has ever been used before.

To clarify this distinction, claim 13 is amended to recite “determining if the digital camera is being used for a first time **ever**.**” Emphasis added.** It is clear that Steinberg cannot teach or suggest this recited feature. Therefore, for at least the reasons stated above, claim 13 is distinguishable over Steinberg.

Claims 17-19, 23 and 26 depend from independent claim 13 directly or indirectly. Therefore, for at least the reasons stated with respect to claim 13 as well as on their own merits, claims 17-19, 23 and 26 are distinguishable over Steinberg.

Applicant respectfully requests that the rejection of claims 9, 13, 17-19, 23 and 26 based on Steinberg be withdrawn.

§ 103 REJECTION – STEINBERG

Claim 10 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Steinberg. *See Office Action, item 5.* Applicant respectfully traverses.

It is noted that claim 10 depends from claim 9 and it has been shown above that claim 9 is distinguishable over Steinberg. Thus, for at least due to the dependency thereon as well as on its own merit, claim 10 is also distinguishable over Steinberg.

Applicant respectfully requests that the rejection of claim 10 based on Steinberg be withdrawn.

§ 103 REJECTION – STEINBERG, WASULA

Claims 1-2, 4-6, 8, 11-12, 24 and 25 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Steinberg in view of Wasula et al. (US Publication 20020054224). *See Office Action, item 6.* Applicant respectfully traverses.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to

establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, the combination of Steinberg and Wasula cannot be relied upon to teach or suggest each and every feature of the claims. In the Office Action, the Examiner admits that Steinberg cannot teach or suggest a specific identifier being specific to fingerprint data, a frame of data being associated with a specific identifier, the authorizer storing the identifier specific to the fingerprint data, and the controller referencing the identifier stored in the authorizer. *See Office Action, page 7, line 16 – page 8, line 2.*

To allegedly correct these deficiencies of Steinberg, the Examiner relies upon Wasula. Referring to Figures 1 and 6 and paragraph [0027] of Wasula, the Examiner alleges that Wasula teaches creating profiles for people with fingerprints; profiles contain images taken by a user; and the profiles can be selected from many profiles. Thus, it appears the Examiner is equating the profile as of Wasula with the specific identifier as recited in the claims.

A closer inspection of Wasula indicates that the profiles have no identifying relationship whatsoever. Wasula indicates that a database is provided in a firmware memory 28 in the digital camera 10. *See Wasula, paragraph [0027], lines 1-3.* The database can include a plurality of customized

profiles. *See Wasula, paragraph [0027], lines 3-5.* Each profiles contains a plurality of image utilization fields used in connection with the transfer of images from the digital camera 10 to an external device such as the host computer 40. *See Wasula, paragraph [0027], lines 5-9.* As an example, the profiles may be used to upload images from the camera 10 to the host computer 40. *See Wasula, paragraph [0027], lines 9-13.*

The profiles as described in Wasula are merely customized instructions on transferring images from the camera to an external device. The profiles do not provide any type of identifying relationship. Indeed, Wasula is utterly silent regarding any type of an identifier, let alone an identifier that is specific to a fingerprint data.

The relied upon portion of Wasula – paragraph [0027], lines 17-22 – merely indicates that profiles may be customizable and that a user has access to multiple customized profiles. This does not change the fact that the profiles themselves are merely instructions specifying transfer of image data. It is clear that Wasula cannot teach or suggest the feature of an identifier being specific to fingerprint data.

As an aside, claim 1 also recites, in part “a controller for accessing said authorizer to reference the identifier stored in said authorizer and executing an instruction if the instruction is intended to handle a frame of image data stored in the memory associated with the identifier stored in said authorizer.” Thus, a

clear distinction exists in the claim between the identifier stored in the authorizer and the instructions to be executed to handle the frame of image data stored in the memory. Neither Steinberg nor Wasula teaches or suggest this feature.

Since the profile as described in Wasula cannot in any way be interpreted to be equivalent to the specific identifier as claimed, it naturally follows that Wasula cannot teach or suggest a frame of data being associated with a specific identifier, the authorizer storing the identifier specific to the fingerprint data, and the controller referencing the identifier stored in the authorizer.

For at least the reasons stated above, independent claim 1 is distinguishable over the combination of Steinberg and Wasula. Claims 2, 4-6 and 8 depend from independent claim 1 directly or indirectly. Therefore, for at least the reasons stated with respect to independent claim 1 as well as on their own merits, these dependent claims are also distinguishable over the combination of Steinberg and Wasula.

Claims 11-12 depend from independent claim 9 and claims 24-25 depend from independent claim 13. It has been demonstrated above that claims 9 and 13 are distinguishable over Steinberg. Wasula has not been, and indeed cannot be, relied upon to correct for the deficiencies of Steinberg. Therefore, claims 9 and 13 are distinguishable over the combination of

Steinberg and Wasula. Due to the dependency thereon as well as on their own merits, claims 11-12 and 24-25 are also distinguishable over the combination of Steinberg and Wasula.

Applicant respectfully requests that the rejection of claims 1-2, 4-6, 8, 11-12, 24 and 25 based on Steinberg and Wasula be withdrawn.

§ 103 REJECTION – STEINBERG, WASULA, KRAMER

Claim 3 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Steinberg and Wasula and in further view of Kramer et al. (US Publication 2001/0043728). See *Office Action item 7*. Applicant respectfully traverses.

It is noted that claim 3 depends on claim 1 and it has been shown above that claim 1 is distinguishable over the combination of Steinberg and Wasula. Kramer has not been and cannot be relied upon to correct for at least the above noted deficiencies of Steinberg and Wasula. Therefore, claim 1 is distinguishable over the combination of Steinberg, Wasula and Kramer.

For at least due to the dependency thereon as well as on its own merit, claim 3 is also distinguishable over the combination of Steinberg, Wasula and Kramer.

Applicant respectfully requests that the rejection of claim 3 based on Steinberg, Wasula and Kramer be withdrawn.

NEW CLAIMS

Through this reply claims 27-28 are added. All new claims are believed to be distinguishable over the cited references, individually or in any combination. The new claims depend from independent claims 1 and 13, respectively. Applicant respectfully requests that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

*U.S. Application No. 10/084,181
Docket No. 0378-0386P
Art Unit: 2615
Page 21 of 21*

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By:

D. Richard Anderson
Reg. No. 40,439

HNS
DRA/HNS

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000